



Department of Justice

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Northern District of New York

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BUTLER CHARGED FEDERALLY FOR SCHENECTADY ARSON RESULTING IN FOUR DEATHS

Albany, New York – United States Attorney Richard S. Hartunian and Special Agent-in-Charge Joseph Anarumo, Jr. of the New York Field Division of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives announce that a federal criminal complaint filed today charges Robert A. Butler, 27, with arson resulting in personal injury and death, in violation of Title 18, United States Code, Section 844(i). The affidavit in support of the complaint alleges that on or about May 2, 2013, Butler used gasoline to start a fire at 438 Hulett Street, Schenectady, New York, resulting in the destruction of the building and its contents and the deaths of four people: David Terry, age 32, and three children: Michael Terry, age 3; Layah Terry, age 2; and Donovan Duell, who was 11 months old, and put Safyre Terry, age 5, in the hospital with severe injuries. There is federal jurisdiction over the arson because the building at 438 Hulett Street was a rental property not occupied by the owner and the U.S. Supreme Court has determined that such rental of real estate is an activity that affects interstate commerce.

A criminal complaint is merely an accusation and Butler is presumed innocent unless and until proven guilty. Trial on a federal felony charge must be premised upon an indictment by a grand jury. If indicted and then convicted, Butler faces a maximum sentence of a fine of up to the greater of \$250,000 or twice the gross pecuniary loss to victims, and up to life imprisonment or the death penalty. No decision has been made by the Department of Justice regarding whether to seek the death penalty in this case; that determination is ultimately made by the Attorney General of the United States.

Butler's had his initial appearance this afternoon and was remanded to custody until a detention hearing on Monday, June 10, 2013, at 1:30 p.m.

The investigation which led to this indictment was conducted by the New York Field Division of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, the Schenectady Police Department, and the Schenectady Fire Department. The case is being prosecuted by First Assistant U.S. Attorney Grant C. Jaquith and Assistant U.S. Attorney Wayne Myers.

Schenectady County District Attorney Robert M. Carney said: "Shortly after the arrest of Robert Butler on charges of Arson in the First Degree, I asked the United States Attorney to consider the case for federal prosecution. I did so for several reasons. Federal jurisdiction is always a possibility with significant arson cases and the federal Bureau of Alcohol, Tobacco, Firearms and Explosives was already investigating this case along with the Schenectady Police and Fire Departments. Second, there are significant procedural differences between the state and federal systems regarding the type of evidence which must be presented to a Grand Jury that I believed favored consideration of federal prosecution in this case given the ongoing nature of this investigation by law enforcement and the necessity of moving forward expeditiously. Finally, there are sentencing enhancements possible in the federal system that would more appropriately address the harm caused by this criminal act, beyond the maximum sentence of 25-life Mr. Butler would face if he were to be convicted of murder in the second degree and arson in the first degree in state court. I thank Mr. Hartunian for his willingness to go forward with this prosecution and am grateful that I have always been able to count on him for collaboration and assistance in fulfilling our mutual obligations to safeguard our communities."

United States Attorney Richard S. Hartunian said, "The horrible tragedy that occurred at 438 Hulett Street on May 2nd cried out for the dedication and collaboration of all of law enforcement and fire investigators in the pursuit of justice for the victims of the fire and the person who set it, and the

Bureau of Alcohol, Tobacco, Firearms and Explosives, the Schenectady Police Department, and the Schenectady Fire Department immediately responded with the thorough investigation which led to this federal charge. We thank District Attorney Carney for his leadership and the work of his office in the immediate aftermath of the fire. We are committed to continuing the investigation and the federal prosecution until justice is done.”

ATF Special Agent-in-Charge Joseph Anarumo, Jr. said, “Arson is a reprehensible crime and is even more heinous when small children are killed as a result. I take comfort in knowing that the dogged investigative efforts of the ATF, the Schenectady Police Department and the United States Attorney's Office has resulted in an arrest today. The deaths of those victims will not be in vain and the alleged actions of the defendant will now be addressed in a court of law.”

Schenectady Police Chief Brian Kilcullen said, “The investigation into last month's Hulett Street fatal fire was and remains a collaborative effort between local, state, and federal law enforcement agencies. We will continue to dedicate any necessary resources to the United States Attorney's Office to assist in the prosecution of this matter in federal court.”

Inquiries may be addressed to First Assistant U.S. Attorney Grant C. Jaquith at (518) 431-0247.

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